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24 APR 1997

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| | | |
|--|-----------------------|------|
| Application No./Patent No. 92922300.6-2110 | Ref. MJPD/TC/38013 | Date |
| Applicant/Proprietor NEW ENGLAND MEDICAL CENTER | | |

Communication pursuant to Article 96(2) and Rule 51(2) EPC

The examination of the above-identified application has revealed that it does not meet the requirements of the European Patent Convention for the reasons enclosed herewith. If the deficiencies indicated are not rectified the application may be refused pursuant to Article 97(1) EPC.

You are invited to file your observations and insofar as the deficiencies are such as to be rectifiable to correct the indicated deficiencies within a period

of 4 months

from the notification of this communication, this period being computed in accordance with Rules 78(3) and 83(2) and (4) EPC.

Amendments to the description, claims and drawings are to be filed where appropriate within the said period in **three copies** on separate sheets (Rule 36(1) EPC).

Failure to comply with this invitation in due time will result in the application being deemed to be withdrawn (Article 96(3) EPC).



Primary examiner
for the Examining Division

Enclosures: 3 page/s: reasons (Form 2906)



Bescheid/Protokoll (Anlage)

Datum
Date
Date

Communication/Minutes (Annex)

Blatt
Sheet 1
Feuille

Notification/Procès-verbal (Annexe)

Anmelde-Nr.:
Application No.: 92 922 300.
Demande n°:

The examination is being carried out on the following application documents:

Description:

Pages 1 to 22 as originally filed

Claims:

Nos. 1 to 6 filed with your letter of 18.04.94

Drawings:

Sheets 1/2 to 2/2 as originally filed

1. The following documents (D) are referred to in this communication, the numbering will be adhered to in the rest of the procedure:

D1 PNAS, USA, Vol 88 (1991), pages 1556 - 1559
D2 J. Biol. Chem. 265 (1990), pages 3738 - 3743
D3 US-A-4 935 493
D4 WO-A-91 16339

2. The document D4 indicated in the search report as a P-document is not to be regarded as state of the art according to Article 54(2) EPC, as the date of priority claimed can be allowed for the relevant parts of the present application, cf. Articles 54(2) and 89 EPC.

3. The subject-matter of claims 1 to 6 lacks novelty in



Bescheid/Pro (Inlage)

Datum

Date

Date

Communication/Minutes (Annex)

Blatt

Sheet 2

Feuille

Notification/Procès-verbal (Annexe)

Anmelde-Nr.:

Application No.: 92 922 300.

Demande n°:

view of D1 (Table 1) which is identical with Table 1 on page 19 of the application) and D2, Table 1.

4. In view of the disclosure of D1/D2 in combination of D3 it would appear that the remaining subject-matter which possibly could form part of a novelty restored claim would not satisfy the requirements of inventive step (Article 56 EPC). In fact a person skilled in this art confronted with the problem of looking for further boro-comprising dipeptidyl moieties which are known would have been able to deduce in an obvious manner from the above mentioned documents that some combinations of Ala, Pro and boro-Pro have not been disclosed explicitly.
5. In addition, since no example has been disclosed in the specification in this respect it would appear that no possibility of overcoming this deficiency by amendment is existing (Article 83 EPC, Article 56 EPC).
6. It would therefore appear that the application should be refused under Article 97(1) EPC. The examination is being carried out on the following application documents:

The application documents as originally filed

Description:

Pages xx to xx as originally filed

... .. 6 xx/xx/xx



Bescheid/Pro

Anlage)

Communication/Minutes (Annex)

Notification/Procès-verbal (Annexe)

Datum

Blatt

Anmelde-Nr.:

Date

Sheet 3

Application No.: 92 922 300.

Date

Feuille

Demande n°:

Nos. xx to xx as originally filed

Nos. xx to xx filed with your letter of xx/xx/xx

Drawings:

Sheets xx to xx as originally filed

1).